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September 25, 1996

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

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SEP 25 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: CC Docket No. 94-102

Dear Mr. Caton:

Transmitted herewith for filing with the Commission on behalf of Bell Atlantic NYNEX Mobile, Inc., are an original and four copies of its Comments on the Commission's Further Notice of Proposed Rulemaking in this proceeding.

Should there be any questions regarding this matter, please communicate with this office.

Very truly yours,

*John T. Scott, III*

John T. Scott, III

Enclosures

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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

SEP 25 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Revision of the Commission's Rules to ) CC Docket No. 94-102  
Ensure Compatibility With Enhanced )  
911 Emergency Calling Systems )

## COMMENTS OF BELL ATLANTIC NYNEX MOBILE, INC.

Bell Atlantic NYNEX Mobile, Inc. (BANM) hereby submits its comments opposing the proposals set forth in the Further Notice in this proceeding.<sup>1</sup>

### SUMMARY

The First Report and Order imposed numerous new 911 and Enhanced 911 obligations on commercial mobile radio service (CMRS) providers, despite a rulemaking record which showed that some of these obligations are counter-productive and exceed those that landline telecommunications carriers must meet.<sup>2</sup> The Commission's decision to impose these many new requirements provoked

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<sup>1</sup>Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 94-102, FCC 92-264, released July 26, 1996.

<sup>2</sup>For example, the Report and Order requires CMRS providers to transmit calls from non-service initialized phones, in the face of positions of both public safety organizations and carriers (which were reflected in comments and in a formal public safety-industry agreement) that this requirement would be overly broad and should not be imposed.

equally numerous challenges; sixteen petitions for reconsideration were filed by a wide range of parties.<sup>3</sup>

Given the problems generated by the Report and Order, and the infant state of E911 wireless technology, it is premature for the Commission to propose even more onerous obligations. BANM urges the Commission to stop, and instead address the problems in the rules it has already adopted. It should also not take on consideration of caller location requirements in a vacuum, apart from location technologies being developed and deployed by the radiolocation industry. Once wireless E911 standards and technology can be developed and implemented, the Commission will be able to assess whether further regulatory intervention is needed. But it is abundantly clear, given the state of 911 technology today, that the Commission lacks the factual basis to impose additional requirements at this time.

#### **THE FURTHER NOTICE'S PROPOSALS SHOULD NOT BE ADOPTED.**

1. **Stricter Location Data (§ 138).** Although the Report and Order just imposed a requirement that obligates carriers (at the end of five years) to identify callers to within 125 meters two-thirds of the time, the Further Notice proposes to replace it with a 40 foot (e.g., 12 meters) / 90 percent accuracy standard. Without any facts showing that even the 125 meter standard can work, the Further Notice

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<sup>3</sup>Public Notice, Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings, Report No. 2154, September 18, 1996.

already proposes to discard it in favor of a far more rigorous standard. This proposal is both flawed and unnecessary.

Neither the industry nor the Commission can know whether even the location technology mandated by the First Report and Order will be successful or whether and how PSAPs will use that technology. To BANM's knowledge, the PSAP / public safety communities have not asked for a stricter location technology -- indeed many PSAPs are not yet capable of using any location information that is passed to them. While the Further Notice appears to assume that this technology will be available, will be used by PSAPs, and will contribute to public safety, these assumptions are speculative. The Commission cannot impose mandatory rules based on an unsupported "estimate" (§ 139) of when technology may develop.

Worse, the new proposal is only likely to frustrate and confuse the deployment of location technology. It would make no sense to invest in one form of technology to achieve one standard, when that standard may be superseded by another. In addition, the radio-based location industry is already developing and deploying alternate methods of location technology. The Commission should not proceed with E911 requirements in a vacuum, but should instead look to more general location technologies that are evolving in that industry, and allow wireless carriers to continue to concentrate on delivery of quality voice call completion. Overlay and other location identification methods like those being developed by radiolocation service providers may avoid duplicative, costly and inefficient investments in CMRS networks.

The problems posed by the Further Notice in this regard are particularly serious given that the Commission proposes to allow the application of the stricter standard to turn on whether the local PSAP requests such location data (§ 138). Under this patchwork approach, carriers will be faced with different obligations in different service areas, and even in different communities within the same service area. This is unworkable, as well as harmful to the goal of achieving a consistent set of 911 services.

While the Commission has the authority to consider the development of long-term technical standards, this Further Notice is the wrong vehicle. The Commission should, as it has done in other contexts, rely on its broader "Notice of Inquiry" process to ascertain the technical information that could then be used, if warranted, to propose new standards. Only as a result of that inquiry, and only if warranted, would the Commission propose a specific rule. The Further Notice lacks the requisite factual basis for a rulemaking. The Commission should discard the proposed 12 meter / 90 percent standard.

**2. Reporting Requirements (§ 143).** The Further Notice next proposes "monitoring mechanisms" such as mandatory reporting requirements on carriers, to check up on how they are implementing the E911 standards. This is simply overreaching. The Commission has ample ability to ascertain the status of 911 in the industry without resorting to this sort of government-imposed monitoring. This proposal is also at odds with the Commission's frequently stated goal of reducing paperwork and other burdens on licensees and especially on CMRS

providers. The Wireless Bureau in particular has noted its many efforts to reduce monitoring, reporting and filing requirements.<sup>4</sup> This proposal should also be discarded.

3. **Servicing "Stronger" Signals (§ 144).** The Further Notice resuscitates an issue that has already been raised and debated: a carrier's obligation to serve 911 calls from a competing carrier's subscribers where the competing carrier provides a "stronger" signal. This requirement was proposed by the "Ad Hoc Alliance for Public Access to 911" in October 1995, and the Commission specifically sought comment on it in November. All commenters who addressed this proposal opposed it.<sup>5</sup> The record already developed on this issue shows that:

-- The concept of selecting the strongest signal strength is totally unworkable because signal strength varies considerably as the caller moves, and is constantly changing at both the handset and the base station. The documentation by AT&T, CTIA and others of these and other technical flaws in the proposal were not rebutted by the Ad Hoc Alliance.

-- Implementation of different new digital wireless technologies (which as been encouraged by the Commission) will not necessarily permit phones to switch to the strongest system. A customer using analog, DMA, TDMA, GSM or another system will not always be able

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<sup>4</sup>E.g., Notice of Inquiry, Improving Commission Processes, PP Docket No. 96-17, released February 14, 1996; Public Notice, "Wireless Telecommunications Bureau Clarifies Existing Rules and Commits to Comprehensive Review of Practices and Public Access to Information," released March 26, 1996.

<sup>5</sup>Comments of AT&T Wireless Services, Inc. at 6-8, Comments of CTIA at 10-12, Comments of BANM at 4, Comments of Rural Cellular Ass'n at 5-7, Comments of PCIA at 6-7, Comments of BellSouth at 2-5, Comments of North Carolina RSA 3 Cellular Telephone Co. at 2-3, Comments of Southwestern Bell Mobile Systems, Inc. at 2.

to access a competing a competing carrier using a different technology.

-- This rule would penalize the carrier with the best coverage, by loading all 911 traffic from one point onto its system, and may impair its ability to complete all calls. This is particularly unfair if it were coupled with the obligation imposed by the First Report and Order that a carrier must service even calls from non-subscribers.

Other problems are evident. For example, the call set-up channel that measures the strength of the signal is not the channel on which the call is actually completed. These two channels are unrelated. A "strongest signal" standard could not measure either traffic or interference levels on the call delivery channel. The strength of the signal, therefore, is not necessarily an indication of the ability to complete a call. In addition, the relative strengths of PCS, SMR or cellular channels is never indicative of the channel capacity available for the transport of 911 traffic.

The "strongest signal" proposal should be quickly rejected as technically flawed, unfair and unwarranted. There is no reason to belabor it further.

**4. Customer Education (¶ 149).** The Further Notice finally asks for comment on imposing customer education requirements. These are also unnecessary and impractical. At this time, it is not clear what 911 services will be available, at what time, and where. The Commission's own standards as adopted in the Report and Order themselves allow variation in accessibility to 911 services depending, for example, on whether a PSAP requests that it be sent calls from non-service initiated phones, and the Further Notice admits (at ¶ 153) that the

rules already adopted are "likely to result in significant variation in different jurisdictions." Mandatory "education" requirements could mislead rather than educate by, for example, failing to account for the risk that customers will depend on 911 service at a level that does not exist in their communities. Yet to fully account for these variations in such notices would undermine their effectiveness.

Consumer education as to the availability of E911 services should flow from the state and local organizations that are directly responsible for public safety, in cooperation where appropriate from telecommunications providers, not by imposing "top-down" standards on CMRS carriers. The Commission has not imposed such requirements on the landline telephone industry. There is no reason, let alone the requisite clear-cut need,<sup>6</sup> to impose them on the commercial mobile radio service.

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<sup>6</sup>This and other proposals in the Second Notice would be "at odds with our general policy of allowing market forces, rather than regulation, to shape the development of wireless technologies." Second Report and Order and Third Notice of Proposed Rulemaking, Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, released August 15, 1996, at ¶ 26.



## CONCLUSION

BANM, as noted in its earlier comments in this docket, has always provided 911 services to its customers, and has made numerous contributions to public safety and law enforcement agencies in the communities it serves. Other carriers have as well. 911 service has developed without regulatory intervention, and it should be permitted to continue to do so. Even if the Further Notice's proposals were technically feasible at this time -- which they clearly are not -- there is no need, let alone a compelling one, to adopt further CMRS 911 rules at this time. There will be ample opportunity in the future to address these issues, but to take them up today is unnecessary, ill-advised, and legally unjustified given the Commission's own policy of minimum regulation of the CMRS industry.

Respectfully submitted,

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